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## Sportico

# Accused Cheer Monopolist Varsity Squares Off Against Ex-Employees



Daniel Libit

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**Varsity Spirit**, the Bain Capital-owned, billion-dollar cheerleading company fighting a trio of federal [antitrust](#) lawsuits, is now squaring off against a growing group of former employees who are trying to carve out their own corners of the “All Star” competitive cheer market.

New ventures started by former high-ranking Varsity insiders present additional challenges to the cheer giant, which has recently shown vulnerability after decades of largely unchallenged command.

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Since last year, Varsity has filed suit against three ex-executives—national sales director Kevin Brubaker; vice president of operations Abel Rosa; and Oklahoma state director Josh Quintero—accusing them of violating noncompete clauses.

Following their ousters, Brubaker and Rosa announced last fall the formation of Legacy Tours, a company that planned to host a series of cheerleading and dance competitions around the country this year. Quintero resigned from Varsity in December to take a job as communications director of the Open Championship Series, a cheerleading cooperative of over 70 international event producers. In court filings, Varsity has said that Legacy Tours and OCS represent direct competition to its business.

Rosa's case is set for a January trial, and there is a scheduling conference Friday in the Brubaker matter. After Varsity's lawsuit was filed, Rosa told a court he had ceased working for Legacy Tours and that the company had subsequently canceled all of its cheer events for 2021.

Brubaker, meanwhile, has claimed that Varsity "fraudulently induced him" to sign a six-month severance agreement last spring, under the false impression that he was free to work in the industry after its term has expired.

In defending his jump to the OCS, Quintero invoked antitrust allegations being made by other parties against Varsity, arguing that the breach-of-contract litigation is "consistent with Varsity's practice... to aggressively attempt to monopolize the spirit industry and obliterate any non-Varsity events." Quintero's case is set for trial late next year.

Rosa, Brubaker and Quintero did not respond to requests for comment. Although Varsity has sued them separately, each of the defendants is being represented by the same Tennessee-based attorney, Will Carver, who also declined to comment.

Last week, two other former key Varsity employees, general

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announced they would be launching sister cheerleading competition firm

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Hill and Elza, whose jobs at Varsity were terminated last summer, said they would be participating in the Open Championship Series. They also made clear they would not join the United States All-Star Federation (USASF), a Varsity-founded national governing body embroiled in controversy over its handling of sexual misconduct cases by cheer coaches. Elza previously served as a USASF board member, while Hill performed duties on several of its committees.

“I hope that with everything that has happened recently, the USASF will take the proper steps to make their organization benefit all member companies and athletes,” Elza said in the release. “If and when this happens, we will reconsider our decision.”

The USASF did not respond to a request for comment.

In an interview with *Sportico*, Elza says he assumes the USASF would welcome his venture’s participation in the future, should it later seek admission. “I was on the board of directors for seven years,” he said. “There are still people on the board who are friends of mine.”

Hill, meanwhile, says that the cheerleading world has long been clamoring for “non-sanctioned” events outside the USASF imprimatur, and that he hopes to tap into that desire.

The duo lost their top sales jobs at Varsity Spirit amid the company’s pandemic-fueled restructuring, which has seen a number of old hands depart since Bain’s 2018 acquisition of its parent company, Varsity Brands.

“It was a shock,” Elza said. “There was no part of me that thought I was going to lose my job.”

Still, Elza and Hill opted to wait until their negotiated noncompete clauses concluded before launching their new ventures. Elza says that, just before his announcement of Liberty Spirit, he reached out to Varsity for a final go-ahead.

Varsity did not respond to a request for comment sent to a spokesperson.

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their size. I am not looking to come out and take over the world. I am looking to provide some quality options for people who are looking for those options at a lower price point.”

David Owens, director of events for the Open Championship Series, says he welcomes the former Varsity officials with open arms.

“We are pro-competition,” Owens said. “We are not afraid of people coming into the market.”

In addition to his OCS role, Owens is owner of the Oklahoma City-based Rockstar Championships, a co-plaintiff in one of the class-action suits against Varsity, brought by the companies American Spirit and Cheer Essentials.

The lawsuit has not only accused Varsity of illegal anticompetitive behavior, but RICO violations as well. In August, the federal judge overseeing all three antitrust suits denied Varsity’s motion to dismiss a case brought by a group of gyms and parents, who purchased Varsity products or paid Varsity competition entry fees. USASF is a codefendant in that lawsuit.

Elza confirmed he was subpoenaed last week by the plaintiffs’ lawyers to appear for a deposition, something he acknowledged he was “not really excited to be involved in.”

As the legal cases proceed, the immediate threat these new cheerleading companies pose to Varsity’s bottom line appears to be minor. After years in which Varsity was perceived as systematically steamrolling or swallowing up competitors, some observers perceive the pendulum swinging towards decentralization.

“I almost see this as cyclical,” said Sheila Noone, Varsity’s longtime communications director who was also laid off last spring. “Thinking back to the early days of all-star cheerleading in the late ’90s and early 2000s, there were so many event companies launching and competing for

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away,” said Elza. “People are excited for change. They haven’t

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Owens says it was “too soon to tell” whether these new entities could seriously challenge Varsity’s dominion. This summer, Owens spoke before the [Federal Trade Commission](#) during an open meeting, telling regulators that Varsity’s sway over the USASF and another national governing body, USA Cheer, represented “an immediate threat to the health, well-being and safety of the children and the sport.”

In December, a *USA Today* [investigation](#) revealed “an inherently flawed process” in the USASF’s oversight role, which allowed scores of cheerleading coaches that had been accused of committing sexual or psychological abuse to continue coaching young athletes.

Last month, Varsity founder Jeff Webb, himself a codefendant in one of the antitrust lawsuits, [told Sportico](#) that much of the antipathy towards the company was borne of industry jealousy. Webb resigned from Varsity in December, saying he was leaving to focus on his job as president of the International Cheer Union and to pursue political projects.

Both Webb and Varsity have denied the company ever operated as a monopoly.

A number of former Varsity officials, in addition to Elza, could serve as key witnesses in the antitrust litigation, should it go to trial. Brubaker, for example, is specifically referenced in the American Spirit complaint as an example of the “growth and entrenchment of Varsity’s monopolistic enterprise.”

Before joining Varsity, Brubaker had founded the Atlanta-based Cheersport, which oversaw one of the country’s biggest single-day cheerleading events. Varsity took controlling interest of Cheersport in 2012 and its 30 annual cheerleading and dance competitions. As part of the acquisition, Brubaker became a Varsity executive, eventually rising to the leadership team. (He did not respond to requests for comment.)

Varsity claims that as part of his employment, Brubaker

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of his departure. In April, Brubaker signed a separation agreement with

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the company's complaint. The lawsuit, as with Rosa's, was filed in the Tennessee state chancery court in Memphis, where Varsity is headquartered.

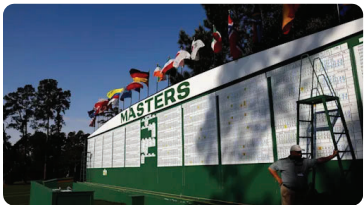
Six months later, Brubaker and Rosa, along with six other ex-Varsity employees, formed two LLC's under the trade name of "The Legacy Connection." Varsity alleges that Brubaker began sending email solicitations to "numerous cheerleading coaches, gym owners and other individuals," inviting them to compete in a series of cheerleading and dance competitions Legacy Tours planned to host across the country.

Varsity subsequently sued and sought injunctions against Brubaker and Rosa and, earlier this year, the parties agreed to a temporary restraining order, which remains in effect. Rosa has admitted he was unaware of the restrictive covenants in a Bain Capital option plan offered to Varsity employees upon Bain's acquisition of the company. However, Rosa contends he never exercised the option and therefore shouldn't be subject to its two-year noncompete clause.

Owens sees Varsity's employment litigation as just "delaying the inevitable."

He added, "I basically look at it that they are bullies with a big stick, and they have a lot of money."

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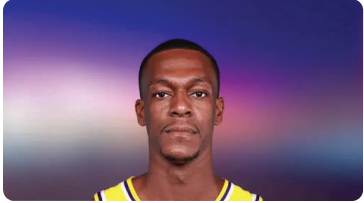
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